

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 34245

STATE OF IDAHO,)	2008 Unpublished Opinion No. 628
)	
Plaintiff-Respondent,)	Filed: September 3, 2008
)	
v.)	Stephen W. Kenyon, Clerk
)	
CHARLES P. JAMES,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Second Judicial District, State of Idaho, Nez Perce County. Hon. Carl B. Kerrick, District Judge.

Order granting probation following retained jurisdiction, affirmed.

Molly J. Huskey, State Appellate Public Defender; Justin M. Curtis, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

PER CURIAM

Charles P. James was found guilty by a jury of felony driving under the influence of alcohol, I.C. §§ 18-8004(1)(a), 18-8005(5), and was sentenced to a unified term of five years, with two years determinate. The district court suspended the sentence and placed James on probation for five years. James subsequently violated the terms of his probation and the district court revoked his probation and ordered the previously imposed sentence into execution, but retained jurisdiction. After James completed his rider, the district court suspended the sentence and again placed James on probation for two years. James appeals, contending that the district court abused its discretion by failing to reduce his sentence *sua sponte* upon placing him on probation following the retained jurisdiction.

Where a sentence is within the statutory limits, it will not be disturbed on appeal absent an abuse of the sentencing court's discretion. *State v. Hedger*, 115 Idaho 598, 604, 768 P.2d 1331, 1337 (1989). We will not conclude on review that the sentencing court abused its

discretion unless the sentence is unreasonable under the facts of the case. *State v. Brown*, 121 Idaho 385, 393, 825 P.2d 482, 490 (1992). In evaluating the reasonableness of a sentence, we consider the nature of the offense and the character of the offender, applying our well-established standards of review. See *State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 170 P.3d 387 (2007).

Applying the foregoing standards and having reviewed the record, we conclude that the district court did not abuse its discretion by imposing the sentence without reduction upon placing James on probation following his retained jurisdiction. Accordingly, the district court's order placing James on probation is affirmed.